

Issue: Charitable Ownership/Use

ONARGA COMMUNITY CENTER)	
Applicant)	Docket # 93-38-46
)	Parcel Index # 20-22-24-279-003
versus.)	
)	Barbara S. Rowe
THE DEPARTMENT OF REVENUE)	Administrative Law Judge
OF THE STATE OF ILLINOIS)	

SYNOPSIS: The Iroquois County Board of review filed an Application for Property Tax Exemption (hereinafter the "Application") with the Illinois Department of Revenue (hereinafter the "Department") for Onarga Community Center (hereinafter the "Applicant"). The Department denied the application finding that the property was not in exempt ownership and use. The applicant filed a protest to the findings of the Department and requested a hearing in the matter. At the hearing it was determined that applicant is exempt from payment of federal income tax pursuant to a 501(c)(4) designation, that the applicant is a civic organization and that the use of the property in 1993 was for social and civic purposes. It is recommended that the parcel herein question remain on the Iroquois assessment rolls for the 1993 tax year.

1. The Department's position in this matter, namely that Iroquois County permanent parcel index number 20-22-24-279-003 was not in exempt ownership and use during the 1993 assessment year was established by admission into evidence of Dept. Ex. Nos. 1- 6.

2. The applicant acquired the property by a corporate warranty deed

dated July 22, 1991. (Dept. Ex. No. 2)

3. Applicant is incorporated under the Illinois Not for Profit Corporation Act. Article 4 of the Articles of Incorporation states:

The purposes for which the corporation is organized are: to provide a community center for the use of citizens and civic clubs of Onarga and the surrounding area. No sale of alcoholic liquor will be permitted on said premises. (Dept. Ex. No. 2)

4. Applicant is exempt from the payment of federal income tax under Section 501(c)(4) of the Internal Revenue Code. (Dept. Ex. No. 2)

5. Prior to the acquisition of this parcel, a bank meeting room was used for various civic and charitable organizations within the community. (Tr. p. 10)

6. The property at issue became available to the community by a donation of the property to the applicant by the Onarga American Legion. The applicant was formed at that time to oversee the use of the building. (Dept. Ex. No. 2; Tr. p. 10)

7. Applicant has no employees. All persons involved with the building were volunteers. (Tr. p. 12)

8. No entity was charged rent for the use of the building. Any user was asked to make a donation if possible. (App. Ex. Nos. 2-7; Tr. p. 14)

9. No one had ever been denied access to the building if they could not provide the appropriate or requested donation. (Tr. p. 14)

10. Applicant's income and expenses for 1992 were:

Income		
Rentals	-	\$ 970.00
Lions Club	-	725.00
Public Donations	-	187.00
American Legion	-	135.50
4-H Busy Workers	-	100.00
Hobby Club	-	7.50
Interest	-	8.66
Total		\$2,133.66
Expenses		
N.I. Gas	-	\$ 731.96
Insurance	-	542.00
CIPS	-	450.83

Telephone	-	82.94
Misc.	-	101.41
Taxes	-	12.00
Corp. Fee	-	5.00
Total	-	\$1,926.14

Net Income	-	\$ 207.52 (App. Ex. No. 2)
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11. The groups using the building in 1993 were: Onarga Lions Club, Onarga American Legion Post #551, Onarga Boy Scout Troop, Onarga Little League Association, Onarga 4-H Association and Onarga Fireman. The group of users, along with donations from the Onarga Chamber of Commerce, the Village of Onarga, and fund raisers such as a July 4th Raffle by the Community Center, generated \$2,507.38 for the Community Center upkeep for total donations to the Community Center of \$3,132.38. Overall expenses for the Community Center for 1993 were \$2,808.42. (App. Ex. No. 1)

12. The applicant required a forty dollar donation to cover the cost of electricity and maintenance of the building. (Tr. p. 15)

CONCLUSIONS OF LAW: Article IX, 6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

The statutes of Illinois have provisions for property tax exemptions. In particular, 35 ILCS 205/19.7 (1992), exempts certain property from taxation, in part, as follows:

All property of institutions of public charity, all property of beneficent and charitable organizations, whether incorporated in this or any other state of the United States, all property of old people's homes and facilities for the developmentally disabled...when such property is actually and exclusively used for such charitable or beneficent purposes, and not leased or otherwise used with a view to profit...All old people's homes or homes for the aged or facilities for the developmentally disabled...shall qualify for the exemption stated herein if upon making an application for such exemption, the applicant provides affirmative evidence that such home or facility...is an exempt organization pursuant to paragraph (3) of Section 501(c) of the Internal Revenue Code...and...the bylaws of the home or facility...provide for a waiver or reduction of any entrance fee,

assignment of assets or fee for services based upon the individual's inability to pay... .

Applicant asserts it qualifies for exemption pursuant to 35 ILCS 205/19.7. The language of the statute requires the organization to be exempt from federal income tax pursuant to a 501(c)(3) designation, which the applicant does not have. The applicant has a 501(c)(4) designation as a civic organization.

It is well settled in Illinois, that when a statute purports to grant an exemption from taxation, the tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. *International College of Surgeons v. Brenza*, 8 Ill.2d 141 (1956). Whenever doubt arises, it is to be resolved against exemption and in favor of taxation. *People ex. rel. Goodman v. University of Illinois Foundation*, 388 Ill. 363 (1941). Further, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. *MacMurray College v. Wright*, 38 Ill.2d 272 (1967).

In actions by corporations to have real estate declared exempt from taxation for certain years on the grounds that it is a charitable corporation, the Illinois Supreme Court has held that the certificate of incorporation is the controlling evidence of the purpose for which the organization was created. *Oak Park Club v. Lindheimer* 369 Ill. 462 (1938)

It is also well settled in Illinois that the character and purpose for which a corporation is organized, must be ascertained from its Articles of Incorporation. *People v. Wyanett Light Co.*, 306 Ill. 377 (1922), and also, *Rotary International v. Paschen*, 14 Ill.2d 480 (1958). Applicant's Articles of Incorporation provide that it is organized to provide a community center for the use of citizens and civic clubs of Onarga and the surrounding area and not primarily for charitable purposes.

In the case of *Methodist Old Peoples Home v. Korzen*, 39 Ill.2d 149

(1968), the Illinois Supreme Court laid down six guidelines to be used in determining whether or not an organization is charitable. Those six guidelines are as follows:

- (1) The benefits derived are for an indefinite number of persons;
- (2) The organization has no capital, capital stock or shareholders, and does not profit from the enterprise;
- (3) Funds are derived mainly from private and public charity, and are held in trust for the objectives and purposes expressed in its charter;
- (4) Charity is dispensed to all who need and apply for it;
- (5) No obstacles are placed in the way of those seeking the benefits; and
- (6) The primary use of the property is for charitable purposes.

Under the guidelines of Methodist Old Peoples Home, there can be no profit made. In 1992, the applicant made a profit of \$207.52. In 1993, the profit was \$323.96. I therefore find the applicant does not qualify for a charitable exemption under criteria number two (2) of Methodist Old Peoples Home v. Korzen.

The organizations that used applicant's building were the primary contributors to the applicant for the taxable year in question. While the applicant appears to meet guidelines (1), (4) and (5) of Methodist Old Peoples Home, it does not meet guidelines (2), (3) and (6). Regarding guidelines (3) and (6), the applicant derives most of its funds from payments by users of the property and holds such funds in trust for the purposes expressed in its Articles of Incorporation. Those purposes are social and civic and not charitable. In addition, I find that the primary use of the parcel was for social and civic purposes and not charitable purposes.

I therefore conclude that the applicant is not a charitable organization and that Iroquois County permanent parcel index number 20-22-

24-279-003 was not used for charitable proposes during 1993.

For the reasons stated above, it is recommended that Iroquois County parcel index number 20-22-24-279-003 remain on the tax rolls for the 1993 assessment year.

Respectfully Submitted,

Barbara S. Rowe
Administrative Law Judge

July 11, 1995